

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE WAVE STUDIO, LLC,

Plaintiff,

-against-

GENERAL HOTEL MANAGEMENT LTD., et al.,

Defendants.

Case No. 7:13-cv-09239-CS-VR

**DECLARATION OF MICHAEL D.
CILENTO IN OPPOSITION TO
BOOKING HOLDINGS
DEFENDANTS' MOTION TO
DISMISS AND IN SUPPORT OF
CROSS MOTION FOR LEAVE TO
AMEND**

I, Michael D. Cilento, hereby declare under 28 U.S. § 1746:

I am an attorney at Lewis & Lin, LLC, counsel of record for Plaintiff The Wave Studio, LLC (“Wave” or “Plaintiff”) in this matter. I have personal knowledge of the matters stated below and if called as a witness, I could and would testify competently thereto. I submit this declaration in Opposition to the Booking Defendants’ Motion to Dismiss and in Support of Cross Motion for Leave to Amend.

1. Attached hereto as Exhibit A is a true and correct copy of the proposed new allegations for the Booking Group Defendants.
2. At this time, with two motions to dismiss brought by different groups of defendants concerning different issues, and correspondingly with two separate cross motions by which Wave seeks to add allegations addressing the deficiencies claimed by each group of moving defendants, providing a redline of the Master Complaint inclusive of the proposed allegations is impractical. Adding allegations and redlining its impact as to the remainder of the Master Complaint, prior to a ruling, for either or both groups of defendants in whole or in part,

will necessarily create pagination and paragraph changes and multiple, conflicting versions of redlines.

3. Wave collected evidence and maintained screenshots in support of its allegations of infringements as they accrued and exemplary images or spreadsheets of this ongoing work were included as exhibits to complaints, including the first (Docket No 1.) and the most recent (Docket No. 332). The spreadsheets at Exhibit 1 to the Master Complaint do not delineate entries by entity for the “Booking Group Defendants,” by slipsheet or PDF ‘bookmark’ or otherwise. The Moving Defendants created the table of “Identified Pages of Compendium Spreadsheet” for their Motion, it was neither produced or provided by Plaintiff. No Booking Holding entity has filed a Rule 7.1 corporate disclosure in any of the consolidated actions. At the request of the Court and during the stay of discovery, Wave provided documents to defendants under F.R.E. 408 for use during settlement conferences after the filing of the Master Complaint. No document provided in these productions bears a date prior to 2012.

4. Attached hereto as Exhibit B is a true and correct copy of Booking Holdings Inc.’s Form 10-K for the fiscal year ended December 31, 2024 from the Security and Exchange Commission’s official site, available at <https://www.sec.gov/Archives/edgar/data/1075531/000107553125000010/bkng-20241231.htm>, accessed on April 9, 2025.

5. Attached hereto as Exhibit C is a true and correct copy of an excerpt of priceline.com Incorporated’s Form 10-K for the fiscal year ended December 31, 2005 from the Security and Exchange Commission’s official site titled “Form 10-K: priceline.com Incorporated,” available at

https://www.sec.gov/Archives/edgar/data/1075531/000110465906014649/a06-2010_110k.htm, accessed on April 11, 2025.

6. Attached hereto as Exhibit D is a true and correct copy of an excerpt of a website page from the Security and Exchange Commission's official site titled "EQUITY PURCHASE AGREEMENT by and among priceline.com Mauritius Co. Ltd, priceline.com Incorporated and the Shareholders of Agoda Company, Ltd. and Members of AGIP LLC," available at https://www.sec.gov/Archives/edgar/data/1075531/000110465908014464/a08-2574_1ex10d69.htm, accessed on April 8, 2025.

7. Attached hereto as Exhibit E is a true and correct copy of priceline.com Incorporated's Form 8-K/A, dated May 21, 2013, from the Security and Exchange Commission's official site titled "SEC Form 8-K/A CURRENT REPORT of priceline.com Incorporated," available at <https://www.sec.gov/Archives/edgar/data/1075531/000107553113000041/kayakclosing8-ka.htm>, accessed on April 8, 2025.

8. Attached hereto as Exhibit F is a true and correct copy of an excerpt of Booking Holdings Inc.'s Form 10-K for the fiscal year ended December 31, 2017 from the Security and Exchange Commission's official site titled "SEC Form 10-K ANNUAL REPORT of Booking Holdings Inc.," available at https://www.sec.gov/Archives/edgar/data/1075531/000107553118000015/pcln-20171231_10k.htm, accessed on April 8, 2025.

9. Attached hereto as Exhibit G is a true and correct copy of an excerpt of a website page from the Security and Exchange Commission's official site titled "ROCKET TRAVEL, INC. 2012 STOCK INCENTIVE PLAN (AS ASSUMED BY THE PRICELINE GROUP INC.

ON FEBRUARY 27, 2015 AND AS AMENDED AND RESTATED AS OF FEBRUARY 4, 2016)," available at

https://www.sec.gov/Archives/edgar/data/1075531/000107553116000084/pcln-20151231_10kex1010.htm, accessed on April 8, 2025.

10. Attached hereto as Exhibit H is a true and correct copy of an excerpt of "Booking Holdings Inc.'s Form 10-K for the fiscal year ended December 31, 2017" from the Security and Exchange Commission's official site titled "SEC Form 10-K ANNUAL REPORT of Booking Holdings Inc.," available at

https://www.sec.gov/Archives/edgar/data/1075531/000107553118000015/pcln-20171231_10k.htm, accessed on April 11, 2025.

11. Attached hereto as Exhibit I is a true and correct copy of an article titled "The Priceline Group Inc. (NASDAQ: PCLN) Announces Name Change to Booking Holdings Inc." on Booking Holdings, dated February 21, 2018, and available at

[https://ir.bookingholdings.com/news/news-details/2018/The-Priceline-Group-Inc.-NASDAQ-PCLN-Announces-Name-Change-to-Booking-Holdings-Inc.-02-21-2018/default.aspx#:~:text=\(NASDAQ%3A%20PCLN\)%2C%20the,BKNG%20on%20February%2027%2C%202018](https://ir.bookingholdings.com/news/news-details/2018/The-Priceline-Group-Inc.-NASDAQ-PCLN-Announces-Name-Change-to-Booking-Holdings-Inc.-02-21-2018/default.aspx#:~:text=(NASDAQ%3A%20PCLN)%2C%20the,BKNG%20on%20February%2027%2C%202018), accessed on April 3, 2025.

12. Attached hereto as Exhibit J is a true and correct copy of a website page from the Security and Exchange Commission's official site titled "Booking Holdings Agrees to Acquire HotelsCombined," available at

<https://www.sec.gov/Archives/edgar/data/1075531/000107553118000033/hotelscombinedpressrelease.htm>, accessed on April 8, 2025.

13. Attached hereto as Exhibit K is a true and correct copy of an article titled “Inside our brand new US office: New York” on Agoda, dated April 18, 2018, and available at <https://careersatagoda.com/blog/inside-our-brand-new-us-office-new-york/>, accessed on April 3, 2025.

14. Attached hereto as Exhibit L is a true and correct copy of an article titled “Agoda USA: Inside our Los Angeles Office” on Agoda, dated November 20, 2018, and available at <https://careersatagoda.com/blog/agoda-usa-inside-our-los-angeles-office/>, accessed on April 3, 2025.

15. Attached hereto as Exhibit M is a true and correct copy of a website page titled “Whois Record for AGoda.com,” with annotations indicated with yellow highlight, available at <https://whois.domaintools.com/agoda.com>, accessed on March 9, 2025.

16. Attached hereto as Exhibit N is a true and correct copy of the Internet Archive Wayback Machine website page dated November 26, 2013, available at <https://web.archive.org/web/20131126062813/http://www.agoda.com/>, accessed on April 3, 2025.

17. Attached hereto as Exhibit O is a true and correct copy of a website page titled “Agoda,” available at <https://www.agoda.com>, with annotations indicated with yellow highlight, accessed on April 3, 2025.

18. Attached hereto as Exhibit P is a true and correct copy of the Apple Store website page for the Agoda mobile application, displayed at <https://apps.apple.com/us/app/agoda-cheap-flights-hotels/id44067690>, accessed on April 3, 2025.

19. Attached hereto as Exhibit Q is a true and correct copy of the Google Play Store website page for the Agoda mobile application, displayed at

<https://play.google.com/store/apps/details?id=com.agoda.mobile.consumer>, , with annotations indicated with yellow highlight, accessed on April 3, 2025.

20. Attached hereto as Exhibit R is a true and correct copy of a website page titled “Agoda Policies,” available at

<https://www.agoda.com/info/agoda-policies.html?ds=GjFd%2B1T2frc3iqbI#2>, with annotations indicated with yellow highlight, accessed on April 4, 2025.

21. Attached hereto as Exhibit S is a true and correct copy of a website page titled “Welcome to Cambridge,” available at <https://www.momondo.com/about/offices/cambridge>, accessed on April 11, 2025.

22. Attached hereto as Exhibit T is a true and correct copy of the Apple App Store website page for the Momondo mobile application, displayed at <https://apps.apple.com/us/app/momondo-flights-hotels-cars/id436736538>, accessed on April 9, 2025.

23. Attached hereto as Exhibit U is a true and correct copy of the Google Play Store website page for the Momondo mobile application, displayed at <https://play.google.com/store/apps/details?id=com.momondo.flightsearch>, accessed on April 9, 2025.

24. Attached hereto as Exhibit V is a true and correct copy of a website page titled “Momondo,” and a screenshot of the website footer, available at <https://www.momondo.com>, accessed on April 3, 2025.

25. Attached hereto as Exhibit W is a true and correct copy of a website page titled “Terms & Conditions,” available at <https://www.momondo.com/terms-of-use>, with annotations indicated with a red box, accessed on April 2, 2025.

26. Attached hereto as Exhibit X is a true and correct copy of a website page from the United States Patent and Trademark Office's official site titled "USPO Trademark Search: U.S. Serial No. 79088296," with annotations indicated with yellow highlight, available at https://tsdr.uspto.gov/#caseNumber=79088296&caseSearchType=US_APPLICATION&caseType=DEFAULT&searchType=statusSearch, accessed on April 9, 2025.

27. Attached hereto as Exhibit Y is a true and correct copy of a filing from the United States Patent and Trademark Office's official site titled "Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15," with annotations indicated with a red box, available at <https://tsdr.uspto.gov/documentviewer?caseId=sn79088296&docId=S7520170131160546&linkId=17#docIndex=16&page=1>, accessed on April 9, 2025.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 11, 2025 in Brooklyn, New York.

/s/ Michael D. Cilento
Michael D. Cilento